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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,242	12/19/2000	Jon C. Taenzer	022577-404	4466

7590 07/22/2004
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EXAMINER

BARNIE, REXFORD N

ART UNIT	PAPER NUMBER
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2643

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DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,242

Applicant(s)

TAENZER ET AL.

Examiner

REXFORD N BARNIE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 63 and 69-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 63 and 69-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

R. Barnie
REXFORD BARNIE
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 63 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Julstrom et al. (US Pat# 6,694,034).

Regarding claim 63, Julstrom et al. teaches a hearing aid with a microphone, speaker and signal processing means, a detector for detecting an incoming ring signal in (see col. 5 lines 8-18, col. 10) with an automatic or manual switching to receive incoming calls. Julstrom teaches a wireless communication system wherein the hearing aid would be remote from the cordless or wireless phone and thus the speaker of the hearing aid would have to process incoming signals. However, Julstrom fails to teach

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that the microphone of the hearing could be used when communicating wirelessly such as in a telephone conversation or with a wireless device.

The examiner takes official notice that it's well known in the hearing aid art to be able to use an earpiece microphone and speaker for signal conversion when communicating in a wireless mode with an external device and therefore, it would have been obvious to do so thus encouraging two-way communication without having to be close a wireless external device or one can be remotely communicate through a wireless terminal.

Regarding claim 69, Julstrom teaches a manual switch to manually switch between a first and second signal path.

Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Julstrom et al. (US Pat# 6,694,034) in view of Taenzer (US Pat# 5,751,820).

Regarding claim 70, Julstrom fails to teach the claimed subject matter in detail but Taenzer teaches a hearing aid which can function as a telephone with the claimed limitations in (see col. 8 lines 2-14, col. 9 line 66-col. 10 line 22, col. 11 line 66-col. 12 line 5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Taenzer into that of Julstrom in order to conserve power in (see col. 10 of Taenzer).

Claims 71-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Julstrom et al. (US Pat# 6,694,034) in view of Taenzer (US Pat# 5,751,820) and further in view of Anderson (US Pat# 5,721,783, cited by applicant).

Regarding claims 71-74, The combination fails to teach the claimed subject matter in detail but Anderson teaches a hearing aid with means which can be used in controlling signals including hearing aid signals and external communications based on certain parameters including hearing abilities of a user in (see figs., 948 of fig. 9 and col. 23 lines 26-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Anderson into that of the combination thus making it possible to control a hearing aid based on the hearing loss of a user to enhance sound intelligibility.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703)306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE
07/16/04

RBarnie
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